

Item 3600-001-0001 Department of Fish and Game

2. Interim Reporting on Select Key Activities.

On or before January 10, 2007, Department shall provide a report to the Legislature (including budget and fiscal committees from both houses) on the budgeted activities for 2006-07 and 2007-08 the following program areas: (1) Department's enforcement program, (2) Marine Division, (3) land management and operations, (4) California Environmental Quality Act (CEQA) and Section 1600 program activities, and (5) conservation planning activities. For each of these activities, the department shall include a description of the program, an estimate of the budgeted resources dedicated to the program in 2006-07 and 2007-08, and a discussion of the key, measurable objectives of the programs for 2006-07 and 2007-08.

DEPARTMENT RESPONSE:

FY 2006-07 -- California Environmental Quality Act

PROGRAM DESCRIPTION

The Department of Fish and Game (Department) is vested with significant responsibility and authority in the implementation of the California Environmental Quality Act (CEQA) Environmental Review Program. This includes acting as a CEQA lead agency when the Department plans to implement its own projects and/or fund projects with public monies, or issues specific types of project authorizations, such as California Environmental Species Act (CESA) Incidental Take Permits (ITP) and Lake and Streambed Alteration Agreements (LSAA).

The Department can also act as a responsible agency while consulting with a lead agency during the CEQA process and when issuing project authorizations where the primary responsibility is to review an existing CEQA environmental document from another lead agency. The Department can make specific findings as to how the document addresses its CEQA responsibility in the issuance of its authorization.

Additionally, the Department can act as a CEQA Trustee Agency. In these situations, it has the unique role as the State's trustee for fish and wildlife resources and their habitats.

Finally, the Department also provides a broad CEQA coordination and consultation function while working with CEQA lead agencies in the 1) general development and project planning issues; 2) general meetings with counties and lead agencies to discuss CEQA issues, process or compliance; 3) coordination of county-wide or area wide wildlife protection strategies to facilitate CEQA compliance; 4) consultation on sensitive species conservation strategies; and 5) consultation on open space and CEQA mitigation land protection and management.

The Department has this general role in all of the CEQA Review sub-programs including CEQA Review, Timber Harvest Plan (THP) Review, and Water Rights Review. Successful implementation of this general CEQA planning and coordination role provides broad benefits for fish, wildlife, and habitat protection and conservation.

The Department has dedicated staff that performs the activities and tasks related to CEQA lead agency consultations. Specifically, they are responsible for:

- Pre-Project Consultation
- CEQA Document Triage Review
- Response to Notice of Preparation (NOP)
- Project Consultation to develop mitigation measures and mitigation monitoring.
- Review and Comment on CEQA Documents [i.e., Negative Declaration (NEG DEC), Mitigated Negative Declaration (MIT NEG DEC) and Environmental Impact Report (EIR)]

BUDGETED RESOURCES

The Department has approximately 20 PYs allocated to the CEQA Review Program for FY 2006-07. It intends to augment the program during this fiscal year by adding additional effort to the Program through three PYs by implementing the distribution of 10 new positions allocated in the FY 2006-07 authority for Resource Assessment, CEQA and Habitat Conservation Planning activities. This augmentation will increase the total level of effort for the CEQA Review Program to 23 positions statewide.

Expenditures for the CEQA Review sub-Program to support 20 positions are estimated at approximately \$2.66 million, including salaries and benefits, standard operating and overhead costs. Augmentation of three positions will add approximately \$399,000 to budgeted resources for a total of \$3.06 million for the statewide program for a total resource increase of 15 percent. These resource allocations are represented in the following table:

FY 2005-06 PROGRAM	AUGMENTATION	PROGRAM TOTAL FY 2006-07
20 Positions	3 Positions	23 Positions
\$2.66 Million	\$399,000	\$3.06 Million
28% Review Effort	5.4% (increase)	29.5% Review Effort

KEY MEASURABLE OBJECTIVES

It is the Department's objective to focus its CEQA Review efforts on those projects which may have the greatest effect on fish, wildlife, and habitat resources, with the goal of maximizing impact, avoidance minimization and mitigation for these projects.

To achieve this objective, CEQA Review Program staff conduct a desk "triage" review of the approximately 5,000 CEQA documents the Department receives annually, to identify the projects with greatest potential effect on fish, wildlife, and habitat resources. From those triaged documents, at current staffing levels the Department is able to provide a more detailed review and follow up on about 28% of the projects which have the greatest potential effects. This level of effort is the best measure of successful program implementation. The Department continuously seeks to augment program resources to boost this level of review effort.

The numbers in the table provided below are the actual numbers of CEQA documents received by the Department during the reporting period. Department Regions do not track the detailed review data needed to report review percentage and review type for all individual document types. However, on average, the Department performs detailed reviews for approximately 28% of the CEQA documents received at our current staffing level. Based on Department audit numbers, AB 3158 Fees are paid on 50% or less of the CEQA documents received for review.

FY 2005-06 CEQA REVIEW DATA BY REGION (JULY 1- JUNE 30)			
DFG REGION	CEQA DOCUMENT TYPE	TOTALS	ESTIMATED REVIEW (28%)
Region 1			
	<i>EIR</i>	6	
	<i>IS</i>	227	
	<i>NEG</i>	6	
	<i>NEG-MIT</i>	2	
	<i>NOP</i>	5	
Total		246	69
Region 2			
	<i>EIR</i>	51	
	<i>IS</i>	3	
	<i>NEG</i>	125	
	<i>NEG-MIT</i>	63	
	<i>NOD</i>	7	
	<i>NOP</i>	29	
Total		278	78

Region 3			
	<i>EIR</i>	22	
	<i>IS</i>	32	
	<i>NEG</i>	97	
	<i>NEG-MIT</i>	112	
	<i>NOE</i>	1	
	<i>NOP</i>	38	
Total		302	85
Region 4			
	<i>EIR</i>	34	
	<i>IS</i>	23	
	<i>NEG</i>	75	
	<i>NEG-MIT</i>	21	
	<i>NOP</i>	36	
Total		189	53
Region 5			
	<i>EIR</i>	41	
	<i>IS</i>	4	
	<i>NEG</i>	122	
	<i>NEG-MIT</i>	124	
	<i>NOD</i>	1	
	<i>NOP</i>	85	
Total		377	106
Region 6			
	<i>EIR</i>	60	
	<i>IS</i>	1	
	<i>NEG</i>	156	
	<i>NEG-MIT</i>	89	
	<i>NOD</i>	1	
	<i>NOP</i>	60	
Total		367	103
Region 7 (Marine Region)			
	<i>EIR</i>	26	
	<i>NEG</i>	6	
	<i>NEG-MIT</i>	13	
	<i>NOP</i>	20	
Total		65	18

EIR – Environmental Impact Report
 IS – Initial Study
 NEG – Negative Declaration
 NEG-MIT – Mitigated Negative Declaration
 NOD – Notice of Determination
 NOE – Notice of Exemption
 NOP – Notice of Preparation

Pending approval of the FY 2007-08 state budget, the Department anticipates a program augmentation, to include new PYs, to implement the Environmental Filing Fee increase mandated in SB 1535 for the CEQA Review Program. As a result of adding additional positions to the program, the Department estimates an increased level of review effort in the CEQA Program from 29.5% up to 50% as reflected below:

FY 2005-06	AUGMENTATION	PROGRAM AT FY 07-08 CLOSE
23 Positions	34 Positions	34 Positions
\$3.06 Million	\$4.5 Million	\$4.5 Million
29.5% Review Effort	20.5% (increase)	50% Review Effort

FY 2006-07 -- Timber Harvest Review Program

PROGRAM DESCRIPTION

A specific programmatic review that falls with the Department's CEQA lead agency consultations is the Timber Harvest Review Program (THP). Department CEQA staff performs a variety of activities and tasks related to THP, including:

- THP Desk Review
- THP Full Review
- Sensitive and T&E species consultations
- THP Pre-consultation and Landscape Planning or Permitting [e.g., Programmatic Timber Environmental Impact Report (PTEIR), Natural Community Conservation Plan (NCCP), Habitat Conservation Plan (HCP)]
- 1602/1611 Lake and Streambed Alteration Agreements
- THP Implementation and Effectiveness Monitoring
- Federal Lands Liaison
- Board of Forestry Liaison and Statewide coordination

Of these, Program efforts are focused on two levels of review for THP Documents.

Desk Review

Review of a THP or Non-industrial Timber Management Plan (NTMP) typically requires less than eight hours (average is two hours) work by an Environmental Scientist. The review must include 1) a scan and triage plan to determine if the plan warrants full review or species consultation; 2) entering mandatory fields into THP Track; and 3) review of the THP for 1611 compliance or notification. This level of review is considered a "Desk Review".

Full Review

A "Full Review" of a THP or NTMP includes all of the elements of a "Desk Review" and typically requires a minimum of eight hours (average is 40 hours) of work by an Environmental Scientist. This review must include 1) attendance at a pre-harvest inspection (PHI) (if scheduled by California Department of Forestry); 2) production of a report, letter, memorandum or e-mail with detailed, site-specific recommendations to reduce the level of impacts on the environment.

These THP Reviews are used to provide detailed recommendations to the Board of Forestry for the protection of fish, wildlife, and habitat resources with the goal of maximizing impact, avoidance minimization and mitigation for these projects.

BUDGETED RESOURCES

The Department has approximately 38 PYs allocated to the THP Review Program for FY 2006-07. Expenditures for the THP Review sub-Program to support 38 positions are estimated at approximately \$5.05 million, including salaries and benefits, standard operating and overhead costs. No changes in staffing or funding levels are anticipated in the current fiscal year. These resource allocations are represented in the following table:

FY 2005-06 PROGRAM	AUGMENTATION	PROGRAM TOTAL FY 2006-07
38 Positions	0	38 Positions
\$5.05 Million	0	\$5.05 Million
100% Desk Review 35% Full Review	0	100% Desk Review 35% Full Review

KEY MEASURABLE OBJECTIVES

It is the Department's objective to focus its THP Review efforts to achieve 100% desk review on all THP filings. The Department can then ensure it performs a full review on those projects which may have the greatest effect on fish, wildlife, and habitat resources. At the current level of staffing, the Department can achieve an average full review level of 35% state-wide. Measurement of these levels of effort is the best measure of successful program implementation.

The numbers provided below are the actual numbers of THP documents received by the Department during the specified reporting period:

FY 2005-2006 THP & NTMP REVIEW DATA BY REGION AND COUNTY (JULY 1- JUNE 30)						
	County	# Plans	Desk	% Desk	Full	% Full
Region 1	Humboldt	141	141		15	10.6
	Del Norte	17	17		5	29.4
	Trinity	18	18		13	72.2
	Siskiyou	23	23		18	78.2
	Shasta	42	42		33	78.6
	Lassen	8	8		6	75
	Modoc	2	2		0	0
	Tehama	7	7		6	85.7
Subtotal		291	291	100%	96	33%

Region 2*						
	Plumas	9	9		1	11.1
	Sierra	1	1		1	100
	Butte	9	9		1	11.1
	Nevada	6	6		1	16.7
	Yuba	5	5		1	20
	Placer	7	7		1	14.3
	El Dorado	13	13		3	23
	Calaveras	2	2		0	0
	Amador	1	1		0	0
Subtotal		53	53	100%	9	17%
Region 3						
	Santa Cruz	8	8		4	50
	San Mateo	2	2		1	50
	Napa	2	2		1	50
	Lake	2	2		0	0
	Sonoma	19	19		6	31.6
	Mendocino	67	67		28	41.8
Subtotal		100	100	100%	40	40%
Region 4*						
	Tuolumne	3	3		3	100
	Stanislaus	0	0			
	Merced	0	0			
	Mariposa	1	1		1	100
	Madera	1	1		1	100
	Fresno	9	9		9	100
	Tulare	2	2		2	100
	Kings	0	0			
	Kern	1	1		1	100
Subtotal		17	17	100%	17	100%
Total		461	461	100%	162	35%
*Region 2 & 4 Programs began 1/3/2006 NTMP – Non-industrial Timber Management Plan						

The Department anticipates it will maintain the current level of review, 100% of Desk Review effort and 35% Full Review effort, on an ongoing basis:

FY 2006-07	AUGMENTATION	PROGRAM AT FY 07-08 CLOSE
38 Positions	0	38 Positions
\$5.05 Million	0	\$5.05 Million
100% Desk Review 35% Full Review	0	100% Desk Review 35% Full Review

FY 2006-07 -- Lake and Streambed Alteration Program

Lake and Streambed Alterations Agreement (LSAA) – Section 1600 Program

PROGRAM DESCRIPTION

Fish and Game Code section 1602 requires any entity to notify the Department before conducting an activity that will substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use material from the bed, channel, or bank of any river, stream, or lake; or deposit or dispose of debris, waste or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream or lake. An entity notifies the Department of any project that may impact a river lake or stream by submitting a complete Notification (application) and the appropriate fee based on the Department's fee schedule.

The Department must determine whether an agreement is required for the proposed activity based on the information in the notification and any onsite inspection. An agreement is required if the Department concludes that the proposed activity could adversely affect a fish or wildlife resource. In these cases, the Department will submit a draft agreement to the entity that includes reasonable and prudent protective measures, taking into account the natural history, vulnerabilities and recovery potential of species and habitats at-risk. After the entity signs the draft agreement and returns it, the Department will sign the agreement after it complies with the California Environmental Quality Act ("CEQA"), thereby making it final.

Each notification goes through an initial review for application completeness. Typically, clerical staff assigns a notification number to the application, logs minimal information into Project Tracking, notes & attaches fees, and forwards the notification to specific individuals for agreement preparation, "no agreement necessary" determination, or approved by operation of law (Op-Law).

Notifications typically go through a Desk Review or Full Review. The level of review varies greatly from region to region and from reviewer to reviewer based on the number of agreements being processed, availability of trained staff and experience & knowledge of the agreement writer. When the number of notifications increase, the time available to process each agreement decreases. While a Full Review of each notification is the goal the Department would like to achieve, Desk Review becomes the only option as workload increases.

Desk Review typically includes the following range of activities:

- Review of the project description and construction plans – determine if the scale and scope of the project are clearly stated
- Review of CEQA documents – adoption or modification of the mitigation & monitoring program

- Evaluation of the project location – what are the impacts to natural resources – are there T&E species impacts -- what is the likely recovery time
- Develop avoidance measures – boilerplate BMPs or site specific recommendations
- Post project restoration – simple erosion control efforts to full-blown mitigation and monitoring plan
- Preparation of the Streambed Alteration Agreement and CEQA document .

Desk Review and preparation of the LSAA will typically take between two to eight hours to process. Notifications that have gone through this process still may end up receiving a “no agreement necessary” letter or approved by operation of law (Op-Law).

Full Review typically includes all the elements of Desk Review plus a range of the following activities:

- Site inspection – evaluate the impact of the project on natural resources and development of avoidance measures
- Meet with consultants, operators and contractors – evaluate design options that may reduce project impacts – develop mitigation strategy
- Consultation with other regulatory agencies for consistency
- Full consideration of Listed Species Impacts – review of California Natural Diversity Data Base (CNDDDB), consult with Department Biologists; develop protocol for species surveys to be used by the applicant

Full Review and preparation of the SAA will typically take between 12 to 40 hours to complete (travel time and meetings make up a big portion of this time).

BUDGETED RESOURCES

The Department has approximately 26 positions of effort allocated to the LSAA Program for FY 2006-07. The Department will augment the program during the current fiscal year by adding four positions to the Program as a result of implementing the new fee schedule that was approved in November 2005. This augmentation will increase the total level of effort for the CEQA Review Program to 30 positions statewide.

Expenditures for the LSAA Program to support 26 positions are estimated at approximately \$2.7 million, including salaries and benefits, standard operating and overhead costs. An augmentation of four positions will add approximately \$532,000 to budgeted resources for a total of \$3.2 million for the statewide program. These resource allocations are represented in the following table:

FY 2005-06 PROGRAM	AUGMENTATION	PROGRAM TOTAL FY 2006-07
26 Positions	4 Positions	30 Positions
\$2.7 Million	\$532,000	\$3.2 Million
21% Op-Law	24% (decrease)	16% Op-Law

KEY MEASURABLE OBJECTIVES

The Department endeavors to review all notifications it receives annually. Not every notification will require an agreement; emergency notifications are an example of this, but they still require resources to review and process. Key measurable objectives for the LSAA Program are the number of projects for which the Department is able to complete agreements. Increases in program staffing should lead to an increase in the number of agreements completed within statutory deadlines. In contrast, the number of projects that are approved by operation of law (Op-Law) reflect those agreements the Department has not been able to complete within statutory deadlines. The Department currently receives approximately 3,000 LSAA notifications annually, and at current staffing levels, approximately 650 or 21% are approved by Op-Law per year. Within the Department's current tracking system, the most straightforward way to measure the success of staff augmentation and program efficiency improvements is to measure the total number of agreements issued and the reduction in projects approved via Op-Law.

- The following table reflects the number of 1) 1600 notifications received, by region; 2) 1600 agreements reviewed, reported by region and level of review; 3) 1600 Agreements that were issued reported by region; 4) CEQA documents prepared by DFG as the lead agency for a 1600 agreement; and 5) 1600 agreements which became operational by law, reported by region.

FISCAL YEAR 2005-06 LSAA NOTIFICATION BY REGION July 1, 2005 - June 30, 2006*				
Region	# Notifications Received	# Issued	# DFG Lead	# Op-Law
1	597	284	2	130
2	445	208	1	36
3	996	226	2	207
4	218	58	0	9

5	577	78	1	144
6	289	21	0	116
Bay Delta	3	3	0	0
Total	2,996	878	6	642

*Data extracted from 1600 Project Tracking on August 28, 2006 and regional counts of "emergency notifications."

Because notifications are in different stages of the process, and the specific data must be extracted from processing transaction codes entered in Project Tracking, there are variations in notification counts. This is also true in the case of notifications that were approved by Operation of Law, or where the Department acted as Lead in preparing an environmental document. Transaction codes are entered into Project Tracking as each phase of process is completed.

The Department anticipates it will maintain the current level of review on an ongoing basis:

FY 2006-06 PROGRAM	AUGMENTATION	PROGRAM TOTAL FY 2006-08
34Positions	0	34 Positions
\$3.73 Million	0	\$3.73 Million
11% Op-Law	0	11% Op-Law